



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,554	10/31/2003	Karl Johnson	081776-0306363	8401
909 7590 12/22/2008 PILLSBURY WINTHROP SHAW PITTMAN, LLP P.O. BOX 10500 MCLEAN, VA 22102				
EXAMINER				
NGUYEN, PHONG H				
ART UNIT		PAPER NUMBER		
3724				
MAIL DATE		DELIVERY MODE		
12/22/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/697,554

**Applicant(s)**

JOHNSON ET AL.

**Examiner**

PHONG H. NGUYEN

**Art Unit**

3724

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22, 40-49, 51, 53 and 55-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22, 40-49, 51, 53 and 55-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. In view of the Appeal brief filed on 09/30/2008, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-22, 40-49, 51, 53 and 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sederberg et al. (5,992,023), hereinafter Sederberg, in view of

Hrusch (5,894,666), Aiken (402,381), Jacobson et al. (6,839,969), hereinafter Jacobson, and Hall (5,187,868).

Sederberg teaches a metal demolition shears comprising a fixed jaw 14 having a fixed blade 66 with a first cutting/shearing edge, a movable jaw 16 having a second cutting/shearing edge (formed by blade 116) and a wear plate/piercing tip insert 140 having one cutting tip 144. See Figs. 1-14.

Sederberg fails to teach the geometric configuration of the wear plate/pierce tip insert 140 being the same in a first position and a second position, wherein the second position is a position in which the wear plate/tip insert is rotated 180 degrees.

It is well known to one skilled in the art to make a geometric configuration of a wear plate/pierce tip insert being the same in a first position and a second position, wherein the second position is a position in which the wear plate/tip insert is rotated 180 degrees to prolong the useful life of the wear plate/pierce tip insert. For example, Hrusch teaches a geometric configuration of the wear plate/pierce tip insert 88 (Fig. 4) being the same in a first position (top tip) and a second position (left of right tip), wherein the second position is a position in which the wear plate/tip insert is rotated 180 degrees. Aiken teaches a geometric configuration of a wear plate/pierce tip insert 2 (Fig. 3) and a shear blade (a) (Fig. 5) being the same in a first position and a second position, wherein the second position is a position in which the wear plate/tip insert is rotated 180 degrees. Sederberg teaches the geometric configuration of a shearing blade 116 (Fig. 13 and 14) being the same in the first position and the second position wherein the second position is a position in which the shearing blade is rotated 180 degrees.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide the wear plate/pierce tip insert 140 a symmetrical body so that both ends of the wear plate/pierce tip insert 140 can be used by rotating the wear plate/pierce tip insert 140 as taught by Hrusch, Aiken and Sederberg to prolong the useful life of the wear plate/pierce tip insert.

It is to be noted that when a second cutting tip is provided to the wear plate/pierce tip insert, it would have been obvious to one skilled in the art not to expose the second cutting tip above the top of the moveable jaw 16 to interfere with the function of pulling roots of the moveable jaw. For example, Hrusch teaches several of reverseable wear plate/pierce tip inserts wherein the non-used tips are not exposed above the moveable jaw. Jacobson and Hall teach wear plate/pierce tip inserts (110 in Jacobson and 14 in Hall) wherein the non-used ends are not exposed above the moveable jaw.

### *Conclusion*

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHONG H. NGUYEN whose telephone number is (571)272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

Art Unit: 3724

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/P. H. N./

Examiner, Art Unit 3724

December 18, 2008

/Boyer D. Ashley/

Supervisory Patent Examiner, Art Unit 3724